

REMARKS

Claims 6-9 and 13-17 are pending in the present application. Reconsideration of the claims is respectfully requested.

I. Application to be Considered Special

This application has received a fifth, non-final Office Action. As per MPEP § 707.02, Applicants respectfully request that the Supervisory Patent Examiner personally check on the pendency of this application and make every effort to complete prosecution of this application.

II. 35 U.S.C. § 121

The Examiner requires a restriction to one of the following sets of claims:

Claims 6, 7, 13, 14, 16, and 17;

Claims 6 and 8;

Claims 6, 9, 13, and 15.

In response to the Restriction Requirement, Applicants **provisionally elect** Group IA, claims 6, 7, 13, 14, 16, and 17, **with traverse**.

Applicants respectfully submit that the Examiner has not met the burden of making a *prima facie* showing of a serious burden on the Examiner, as is required in order to make a restriction or election requirement. MPEP § 808.02, Related Inventions, states that where related claimed inventions are shown to be distinct, the Examiner in order to establish reasons for insisting upon restriction/election, must show by appropriate explanation one of the following: (A) The distinct inventions fall under different subject matter classifications (e.g., patent classifications); (B) The distinct inventions have separate status in the art, notwithstanding being classified together; or (C) It is necessary to search for one of the distinct inventions in places where no pertinent art to the other distinct inventions is shown (i.e., different field of search). Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions. (MPEP, § 808.02).

In the present case, the Examiner has made no such showing in the current Office Action. The Examiner has listed three overlapping groups of claims, but has not provided any basis upon which the claims cannot be examined together without imposing a serious burden on him of the type specified in MPEP § 808.02. Moreover, the Examiner has already examined the claims that are being restricted. That is, the Examiner has already examined the subject matter of claim 7, which is representative of claims 14 and 17; claim 8; and claim 9, which is representative of claim 15. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (*MPEP*, § 803). In view of §§ 808.02 and 803 of the *MPEP*, Applicants respectfully submit that if the Examiner is unable to make a showing of serious burden, then no restriction of the claims should be required of Applicants. Consequently, Applicants traverse the election requirement on the grounds that a sufficient showing of a serious burden on the Examiner has not been made.

Accordingly, Applicants respectfully request that the election requirement be withdrawn. Please note that Applicants have based the election requirement traversal on grounds that do not relate to the distinctiveness of the claims. No statement or representation in this Response should be interpreted as an admission that the claims are not patentably distinct with respect to each other.

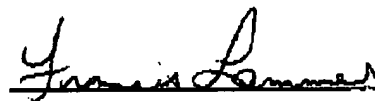
III. Conclusion

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE:

February 24, 2006



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